

REMARKS

Currently claims 1-14 are pending in the application. Claims 1-14 have been rejected under 35 U.S.C. §101 as claiming the same invention as that of claims 1 and 2 of U.S. Patent No. 6,195,648. More specifically, claims 1-14 also have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,195,648. Claims 1-14 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,917,405 to *Joao* and in view of U.S. Patent No. 6,647,328 to *Walker*. These rejections are respectfully traversed.

In response to the double patenting rejection over U.S. Patent No. 6,195,648, the Applicants believe that the present application recites features which are patentably distinct from those recited in the claims of U.S. Patent No. 6,195,648; however, in order to expedite prosecution of the present application a terminal disclaimer will be filed with respect to U.S. Patent No. 6,195,648, once allowable subject matter is indicated to exist. The filing of such a terminal disclaimer should overcome the Examiner's rejection.

With regard to the prior art rejection of claims 1-14 over the *Joao* patent and the *Walker* patent, the examiner maintains that the claimed reference code is allegedly analogous to the first signal recited in claim 1 of the *Joao* patent. In addition, column 46, line 66 - column 47, line 7 allegedly disclose the feature of comparing the code received via a keypad with the reference code.

In making the rejection, the Office Action also states, "the system [as disclosed in the *Joao* patent] is shown to include items not dedicated to directly causing a spark (claim 2, electrical system does not directly initiate a spark, a spark

plug does.)" Finally the Office Action asserts that "it would be inherent the process is not done until the system is initialized as initialization is how computers are activated."

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, the cited references must have some suggestion or motivation either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

Claim 1 recites the feature of initializing a vehicle disablement apparatus by loading a payment interval, which is not disclosed or suggested by the *Joao* patent. Computers are not initialized by loading payment intervals and the Office Action does not provide any factual basis for such an assertion. Applicants respectfully submit that it is not inherent that a vehicle disablement apparatus would be initialized by loading a payment interval as recited in the independent claims. The Office Actions cites claims 1 and 2 and column 46, line 66-column 47, line 7 of the *Joao* patent as disclosing this feature of the invention. However, neither claim 1, claim 2 nor the citation to the specification of the *Joao* patent discloses or suggests that a vehicle disablement apparatus would be initialized "by loading a payment interval".

"In relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonable support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. App. & Inter. 1990

(emphasis in the original). Therefore if the Examiner maintains that the initializing a vehicle disablement apparatus by loading a payment interval is inherent in the system of *Joao*, the Examiner is requested to provide a basis in fact or technical reasoning which discloses that a vehicle disablement apparatus is necessarily initialized by loading a payment interval therein.

With regard to the claimed feature of disabling a system which supports causing ignition in an engine of the vehicle if, prior to the expiration date of the payment interval, there is no agreement between the code received via the keypad and the reference code, wherein said system includes only components not dedicated to directly causing a spark to initiate combustion, the *Joao* patent does not suggest or disclose that the electrical system cited in claim 2 of the *Joao* patent is used to disable the ignition of an engine of the vehicle in the manner recited in the independent claims. Claim 2 of the *Joao* patent merely recites that a monitoring device will monitor at least an electrical circuit and electrical device among other things recited in the claim. It does not disclose or suggest that the electrical device or circuit will be disabled based on a comparison of the code received via the keypad and the reference code as recited in independent claims 1, 6 and 11 of the present application.

The Office Action further states that "*Joao* does not, however, teach using the system for loan repayment purposes or loading a deadline." However, the *Walker* patent is relied upon to disclose these features. It is submitted, however, that upon a review of *Walker*, the skilled artisan would not be motivated to make the necessary changes to practice the Applicants' claimed invention.

The *Walker* patent discloses a system that may be used for loan companies to ensure payment and make accountable (col. 59, lines 15-20). However, *Walker* does not disclose or suggest, at least, initializing a vehicle disablement apparatus by loading a payment interval.

In addition, the citation to the *Walker* patent fails to discuss, disclose or suggest loading a payment interval during initialization of the apparatus as recited in independent claims 1, 6 and 11 of the present application.

Therefore, neither the *Joao* patent nor the *Walker* patent disclose or suggest, individually, or in combination, all of the features recited in the independent claims. Any combination thereof, therefore, would not suggest the claimed invention to the skilled artisan.


Favorable reconsideration and withdrawal of the Examiner's rejection of claims 1-14 under 35 U.S.C. §103(a) are therefore respectfully requested.

Applicants submit that claims 1-14 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact the undersigned to discuss the instant invention, if such a discussion would advance the prosecution of the present application.

Respectfully submitted,

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